IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 27756 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

SURAT DISTRICT CO-OPERATIVE BANK LTD.
Versus
CHIEF CONTROLLING AUTHORITY & ANR

==========

Appearance :
MRS VD NANAVATI for Petitioner:1
MR GOVERNMENT PLEADER for Respondent:2

==========

CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 20/12/2007

ORAL JUDGMENT

1. By way of this petition, the present petitioner has challenged the impugned order dated 1.12.2003 passed by respondent no.2 i.e. Collector

and Deputy Superintendent of Stamps, Gandhinagar and the order dated 21.08.2007 passed by the respondent no.1 i.e. Chief Controlling Authority rejecting the appeal/application of the petitioner on the technical ground of delay.

2. It is submitted by the learned advocate for the petitioner that without giving any details merely in printed form, the order passed by the Superintendent of Stamps, Gandhinagar in a casual manner. It is submitted by him that after taking into consideration certain principles regarding the purchase of impressed stamps, he has passed the impugned order directing the petitioner to pay Rs.1,89,430/- towards the impressed stamp purchased by the petitioner treating the same as null and void. registration fees. The respondent no.2 has also rejected the application of the petitioner for refund of the allowances. Against the said order, the petitioner has preferred an appeal before the Appellate Authority which was rejected by the Appellate Authority on the technical ground of limitation though the petitioner has preferred appeal within the time limit. Therefore, it is prayed that the orders

passed by the respondents authorities are required to be quashed and set aside.

3. In support of his submission, the Learned advocate for the petitioner has placed reliance on the following decisions of this court:

1. 2003 (1) GLR 454 vol.44 (Pradhyaumanbhai Mohanlal Patel v. State of Gujarat
2. 2006 (3) GLR 2252 (Mayurkumar J Patel v. Dy.Collector, Stamp Duty Valuation Department, Rajkot)

In the above decisions, it is held by this court that without giving any reasons and without applying mind towards any of the defences raised by the petitioner therein, in printed format the impugned order has been passed wherein some gaps have been filled in and one and two sentences have been added. It is also held by this court that it is the duty vested in the respondent authorities to justify its say for higher market value for the land in question, and thus, the order in question was quashed and set aside by the court in the aforesaid decision.

4. The respondent no.2 has passed final order on 01.12.2003 and the appeal of the petitioner was

rejected by the appellate authority vide impugned order dated 21.08.2007.

5. Considering the facts and circumstances of the case, it is apparent that the impugned order passed by the Collector and Deputy Superintendent of Stamps, Gandhinagar is in printed form and only some gaps have been filled up by the authorities without giving any reasons. This clearly shows total non-application of mind on the part of the respondent- Authorities. Under these circumstances, the orders passed by the Collector as well as Appellate Authority rejecting the appeal of the petitioner are hereby quashed and set aside. It also appears while perusing the order of the Collector and Deputy Superintendent of Stamps, Gandhinagar that at the time of passing the order, the respondent authority without giving reasons in detail has passed the order.

6. In the result, the petition is allowed. The impugned orders passed by both the respondent authorities are quashed and set aside. Consequently, the matter is remanded to respondent

No.2 for taking fresh decision and for passing a speaking order as per the Act, after giving an opportunity of being heard to the petitioner. Respondent No.2 is directed to dispose of the matter accordingly, within a period of three months from the date of receipt of the writ of this order.

7. Rule is made absolute to the aforesaid extent. No order as to costs.

(***M.D.SHAH, J.)***

Amit/-